

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 13, 2006**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: REZONING: 3726 Old Forest Road – R-2, Low-Medium Density, Single-Family Residential District to B-1, Limited Business District (Conditional)

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Thad Luxton is petitioning to rezone approximately .228 acres at 3726 Old Forest Road from R-2, Low-Medium Density, Single-Family Residential to B-1, Limited Business District (Conditional) to allow the use of an existing structure for office purposes. The Planning Commission recommended approval of the rezoning because:

- Petition agrees with the Comprehensive Plan which recommends an Office use in this area.
- Petition agrees with the Zoning Ordinance in that offices are allowed in a B-1, Limited Business District, provided that no merchandise, material or equipment is stored or kept on premises, either inside or outside of the building, for sale, demonstration or repair.
- Petition proposes the use of an existing residence as a business office.

PRIOR ACTION(S):

- May 24, 2006: Planning Division recommended approval of the rezoning.
Planning Commission recommended approval (7-0) of the rezoning petition with the following voluntarily submitted proffers:
1. The subject property shall be developed in substantial compliance with the site plan received by the Department of Community Planning & Development on May 15, 2006.
 2. An evergreen buffer will be planted adjacent to the residentially zoned property. The buffer shall be a double staggered row, six (6) feet in height at time of planting.
 3. An improved commercial entrance will be installed on the property; the entrance will be thirty (30) feet wide at the right-of-way line with a fifteen (15) foot radius blended into Old Forest Road pavement.
 4. The two existing maple trees at the front of the property will be preserved as shown on the site plan received by the Department of Community Planning & Development on May 15, 2006.
 5. All outdoor lighting will be glare-shielded and directed so as to prevent illumination across the property line.

FISCAL IMPACT: N/A

CONTACT(S):

Tom Martin/ 455-3909

ATTACHMENT(S):

- Ordinance
- PC Report
- PC Minutes
- Vicinity Zoning Pattern

- Vicinity Proposed Land Use
- Site Plan
- Speaker Sign-Up sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE CHANGING THE PROPERTY LOCATED AT 3726 OLD FOREST ROAD FROM R-2, LOW-MEDIUM DENSITY, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-1, LIMITED BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that in order to promote the public necessity, convenience, general welfare, and good zoning practice that 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change the property located at 3726 Old Forest from R-2, Low-Medium Density, Single-Family Residential District to B-1, Limited Business District (Conditional) to allow the use of an existing structure for office purposes.

The area embraced within the following boundaries

Beginning at a point on the northwestern right-of-way line of Old Forest Road, thence N 54° 50' 00" W 136.86', thence N 35° 10' 00" E 75.00', thence S 54° 50' 00" E 127.54', thence S 28° 04' 34" W 75.58', to the point of beginning and containing approximately 0.228 acres.

. . . is hereby changed from R-2, Low-Medium Density, Single-Family Residential District to B-1, Limited Business District (Conditional), subject to the conditions set out hereinbelow which were voluntarily proffered in writing by the owners, namely: Thad and Kristina Luxton, to wit:

1. The subject property shall be developed in substantial compliance with the site plan received by the Department of Community Planning & Development on May 15, 2006.
2. An evergreen buffer will be planted adjacent to the residentially zoned property. The buffer shall be a double staggered row, six (6) feet in height at time of planting.
3. An improved commercial entrance will be installed on the property; the entrance will be thirty (30) feet wide at the right-of-way line with a fifteen (15) foot radius blended into Old Forest Road pavement.
4. The two existing maple trees at the front of the property will be preserved as shown on the site plan received by the Department of Community Planning & Development on May 15, 2006.
5. All outdoor lighting will be glare-shielded and directed so as to prevent illumination across the property line.

And the Director of Community Planning and Development shall forthwith cause the Official Land Use Map and the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

062L

The Department of Community Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission
From: Planning Division
Date: May 24, 2006
Re: **REZONING: R-2, Low-Medium Density Residential District, to B-1C, Limited Business District (Conditional), for approximately twenty-three hundredths (0.23) of an acre of property at 3726 Old Forest Road.**

I. PETITIONER

Thad Luxton, Luxton Enterprises, Inc. 3726 Old Forest Road, Lynchburg, VA 24501

Representative: Thad Luxton, Luxton Enterprises, Inc. 3726 Old Forest Road, Lynchburg, VA 24501

II. LOCATION

The subject property includes a tract of about twenty-three hundredths (0.23) of an acre at 3726 Old Forest Road.

Property Owners: Thad and Kristina Luxton, 3726 Old Forest Road, Lynchburg, VA 24501

III. PURPOSE

The purpose of this petition is to allow for the use of an existing residence as a business office.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan which recommends an office use in this area.
- Petition agrees with the Zoning Ordinance in that offices are allowed in a B-1, Limited Business District, provided that no merchandise, material or equipment is stored or kept on premises, either inside or outside of the building, for sale, demonstration or repair.
- Petition proposes the use of an existing residence as a business office.

The Planning Division recommends approval of the rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends an Office use in this area. Office uses are intended for small-scale office buildings with floor plans not exceeding twenty thousand (20,000) square feet and buildings not exceeding four stories. Given the neighboring zoning and adjacent land use patterns, the proposed office is suitable for the property.
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-2, Low- Medium Density Single Family Residential zoning was established in 1978 with the adoption of the *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed rezoning.
4. **Proffers.** The petitioner voluntarily submitted the following proffer(s) with the rezoning application:
 - 1) The subject property shall be developed in substantial compliance with the site plan received by the Department of Community Planning & Development on May 15, 2006.
 - 2) An evergreen buffer will be planted adjacent to the residentially zoned property. The buffer shall be a double staggered row, six (6) feet in height at time of planting.
 - 3) An improved commercial entrance will be installed on the property; the entrance will be thirty (30) feet wide at the right-of-way line with a fifteen (15) foot radius blended into Old Forest Road pavement.
 - 4) The two existing maple trees at the front of the property will be preserved as shown on the site plan received by the Department of Community Planning & Development on May 15, 2006.

5) All outdoor lighting will be glare-shielded and directed so as to prevent illumination across the property line.

5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:

- On March 24, 2004, City Council approved Robert Dawson's petition to rezone approximately three (3) acres at 3631 Old Forest Road from B-1, Limited Business District, and R-2, Low-Medium Density Single-Family Residential District, to B-1C, Limited Business District (Conditional), to allow the construction of an office complex.
- On July 10, 2001, City Council approved D. Scott Zechini's CUP petition to allow a Cluster Commercial Development at 3712 Old Forest Road for three proposed buildings and parking for forty-two (42) vehicles on a tract of two and twenty-five hundredths (2.25) acres in a B-1, Limited Business District.
- On July 13, 1999, City Council approved Dr. James Stanley's CUP petition to allow a Cluster Commercial Development at 3712 Old Forest Road for three proposed buildings and parking for forty-two (42) vehicles on a tract of two and twenty-five hundredths (2.25) acres in a B-1, Limited Business District.
- On April 13, 1999, City Council approved Milton and Neal Realty's CUP petition to construct an additional parking lot for about fourteen (14) cars at 3701 Old Forest Road in an R-3, Medium Density Two-Family Residential District.
- On May 12, 1998, City Council denied Properties, Inc.'s CUP petition to allow the construction of a commercial fueling facility within the 100 Block of Chapel Lane in an I-3, Heavy Industrial District.
- On July 8, 1997, Forest Hill Animal Hospital withdrew its CUP request to City Council to allow the construction of a veterinary animal hospital at 3712 Old Forest Road.
- On October 13, 1992, City Council rezoned properties along Graves Mill Road and Lakeside Drive from I-3, Heavy Industrial District to B-3, Community Business District as part of the Graves Mill Road/ US 221 Area Land Use Study - Growth Management Program – May 11, 1992 to promote economic vitality, convenience, general welfare and good zoning practice.
- On October 11, 1983, City Council approved Conner, Tull and Mangus's petition to rezone approximately two and fifty-five hundredths (2.55) acres from B-1, Limited Business District, to B-3C, Community Business District (Conditional), at 3708 Old Forest Road.

6. **Site Description.** The subject property is bound to the north, east and southeast by commercial offices and to the southwest and west by single-family residential homes.

7. **Proposed Use of Property.** The purpose of the rezoning is to allow the conversion of the building to an eight hundred and eighteen (818) square foot office for Luxton Enterprises, Inc.; no additional buildings will be constructed on the subject property. Building materials for the existing single-family home is vinyl and fits with the character of the neighboring property. The property is currently served by City water and an existing septic tank. Minor interior renovations will be required to meet the American Disabilities Act provisions of the Building Code. Trash collection will be provided for by curbside pick-up rather than by dumpster.

The petitioner will preserve existing mature vegetation at the front and sides of the property, as well as along the foundation of the building, to meet the requirements of the Scenic Corridor Overlay District. An additional shade tree will be planted at the western side of the parking lot. The petitioner also proposes to provide a vegetative evergreen buffer along the southern and western property lines to buffer existing residential properties.

8. **Traffic and Parking.** The City's Traffic Engineer has requested that the petitioner install a commercial entrance on the property. The petitioner has proffered to install a thirty (30) foot wide entrance at the

right-of-way line with a fifteen foot radius that will be blended into Old Forest Road pavement. The proffer is acceptable to the City's Traffic Engineer.

Parking requirements for the proposed development are set based on offices for business, banking, professional and similar uses as defined by Chapter 35.1-25 of the City's Zoning Ordinance. This use requires one (1) parking space per three hundred (300) square feet of floor area; the proposed eight hundred and eighteen (818) square feet of office space will require three (3) parking spaces. The site plan indicates that three (3) parking spaces will be provided for on an existing paved area at the rear of the development, thus meeting the requirement of City Code.

9. **Storm Water Management.** New impervious areas will not exceed one thousand (1,000) square feet; as such, a stormwater management plan will not be required for the construction. Though not required, preserving existing vegetation on site will result in significantly less construction runoff than if the site were graded, and ultimately provide an improved stormwater quality benefit for the site.

10. **Emergency Services.** The City's Fire Marshal has approved the use of the existing driveway as a fire lane and had no additional comments on the proposed rezoning.

The City Police Department had no comments on the proposed office building.

11. **Impact.** The conversion of an existing residence to a business office will have limited impacts on the surrounding neighborhoods. The design and layout of the existing building is acceptable to the Planning Division.

The petitioner will preserve existing mature vegetation at the front and sides of the property, as well as along the foundation of the building, to meet the requirements of the Scenic Corridor Overlay District. An additional shade tree will be planted at the western side of the parking lot. The petitioner also proposes to provide a vegetative evergreen buffer along the southern and western property lines to buffer existing residential properties.

The City's Traffic Engineer has requested that the petitioner install a commercial entrance on the property. The petitioner has proffered to install a thirty (30) foot wide entrance at the right-of-way line with a fifteen foot radius that will be blended into Old Forest Road pavement. The proffer is acceptable to the City's Traffic Engineer.

New impervious areas will not exceed one thousand (1,000) square feet; as such, a stormwater management plan will not be required for the construction. Though not required, preserving existing vegetation on site will result in significantly less construction runoff than if the site were graded, and ultimately provide an improved stormwater quality benefit for the site.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on May 2, 2006. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

That the Planning Commission waives the twenty-one (21) day submittal requirements for proffers.

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Luxton Enterprises, Inc petition to rezone approximately twenty-three hundredths (0.23) of an acre of property at 3726 Old Forest Road from R-2, Low-Medium Density Residential District, to B-1C, Limited Business District (Conditional), to allow for the use of an existing residence as a business office.

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, Director of Engineering
Capt. Michael L. Thomas, Fire Marshal
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau
Capt. Todd Swisher, Lynchburg Police Department North Division
Capt. J.P. Stokes, Lynchburg Police Department East Division
Capt. Al Thomas, Lynchburg Police Department South Division
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mrs. Erin B. Hawkins, Environmental Planner
Mr. Thad Luxton, Luxton Enterprises, Inc.

VII. ATTACHMENTS

1. Vicinity Zoning Pattern

(see attached map)

2. Vicinity Proposed Land Use

(see attached map)

3. Site Plan

(see attached site plans)

4. Proffers

(see attached)

MINUTES FROM THE MAY 24, 2006 PLANNING COMMISSION MEETING. THESE MINUTES HAVE BEEN REVIEWED BUT NOT APPROVED BY THE COMMISSION.

The Petition of Thad Luxton to rezone approximately 0.228 acres at 3726 Old Forest Road from R-2, Low-Medium Density, Single-Family Residential District to B-1, Limited Business District to allow the use of an existing structure as an office.

Mr. Martin stated that the petition complied with the Comprehensive Plan and the Future Land Use Map, which recommended an office use for the subject property and for the area immediately adjacent to it. He said that voluntarily submitted proffers were adequate to address the concerns of the city staff. He concluded by saying that the Planning Division recommended the approval of the rezoning.

Mr. Thad Luxton of Luxton Enterprises, Inc. stated that he was in favor of the rezoning and that if the Commission had any questions, they could ask him.

Commissioner Sale inquired about the relationship between what Mr. Luxton planned to do with the site and the spirit of the landscaping ordinance. He asked if there was any reference in terms of the site plan on that matter.

Mr. Luxton said that any portion of the property that was adjacent to a residential area would have an evergreen buffer zone. He mentioned that Klaus Schreiber, Urban Forester for the City, recommended species such as Norway spruce, Foster's Holly, or Austrian Pine. He said that if the rezoning was approved, that was what he planned to do concerning the residential areas.

Commissioner Sale asked if that issue was the only one that Mr. Luxton saw was applicable to the Landscaping Ordinance.

Mr. Luxton said yes and that there were two existing maple trees that Mr. Schreiber recommended leaving on the front of the property.

Mr. Martin stated that the new Landscaping Ordinance, as proposed, recommended the preservation of existing trees, and that the preservation of the trees could meet other landscaping requirements. He said that the plan was in close compliance with the Landscaping Ordinance.

Commissioner Sale asked what Mr. Martin meant by "close."

Mr. Martin said that the buffer that was proposed by the new Landscaping Ordinance was obviously double rows with a filler of evergreen shrubs. He said that Mr. Luxton was not proposing that on his site, and he should not be penalized for it.

Commissioner Worthington asked if the building would be used for Mr. Luxton's personal use or for rental.

Mr. Luxton said that it would be used for his personal office use.

Commissioner Barnes asked if the area was already paved for parking.

Mr. Luxton said that the paving was already present.

After further discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Barnes and passed by the following vote:

"That the Planning Commission recommends to City Council approval of Luxton Enterprises, Inc petition to rezone approximately twenty-three hundredths (0.23) of an acre of property at 3726 Old Forest Road from R-2, Low-Medium Density Residential District, to B-1C, Limited Business District (Conditional), to allow for the use of an existing residence as a business office."

AYES:	Bacon, Barnes, Flint, Hamilton, Oglesby, Sale, Worthington	7
NOES:		0
ABSTENTIONS:		0
ABSTEN:		0

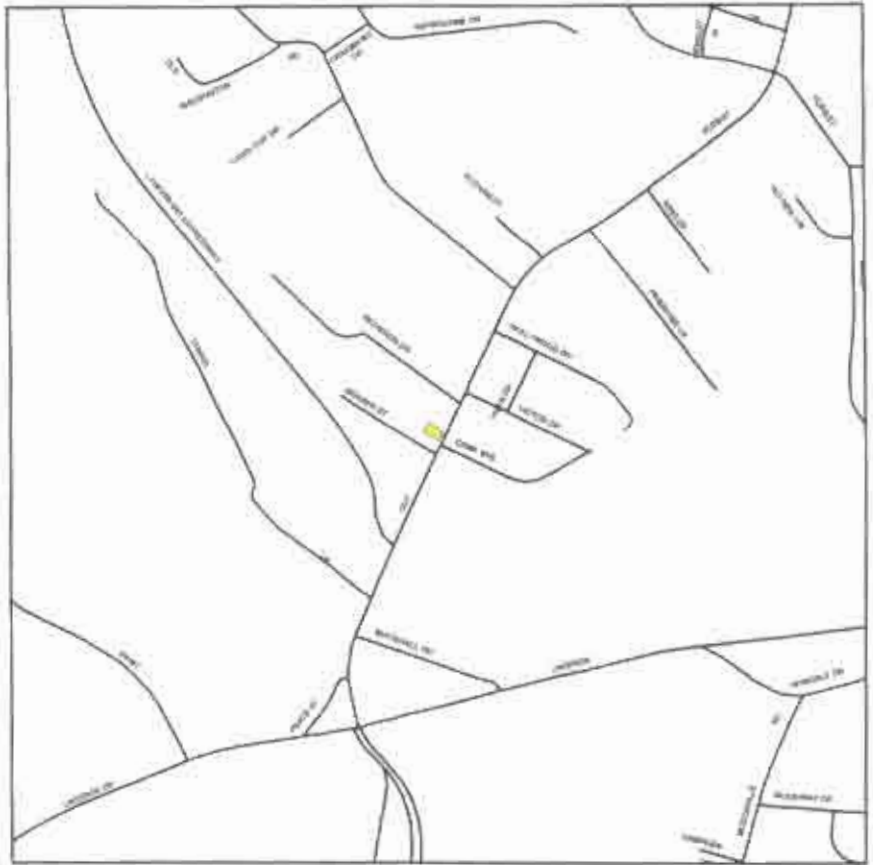
LUXTON ENTERPRISES
3726 Old Forest Road
Map # 226-09-002
Rezoning from R-2 to B-1
Petitioner: Thad Luxton

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property

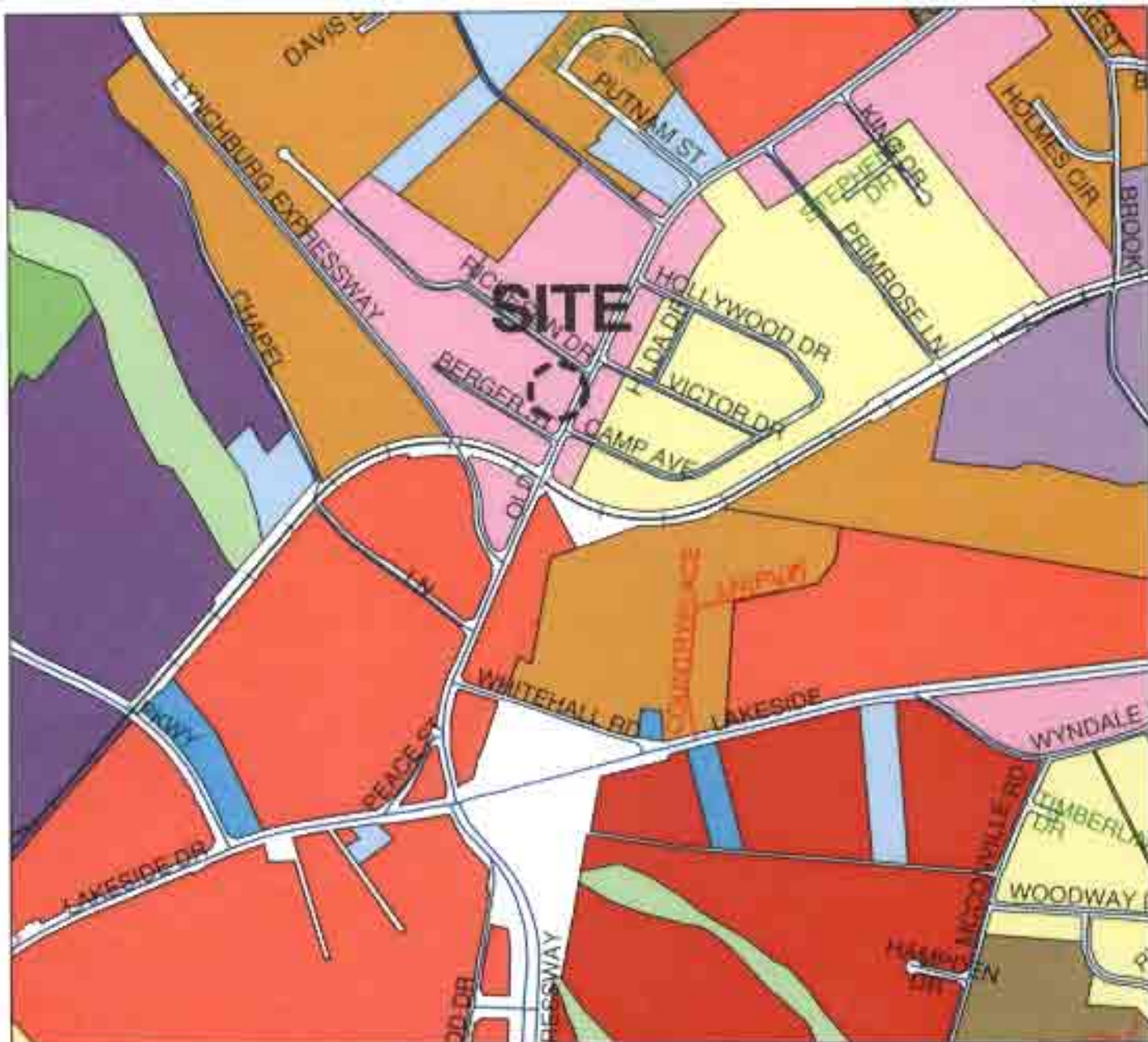
200 ft Radius



LUXTON ENTERPRISES

3726 Old Forest Road

PIN	OWNER
22610039	ALSTIN KEITH H DDS
22603002	CENTRAL VIRGINIA TRUCKING CO INC
22609020	DAVIS JAMES K & CHERYL R
22609001	DEPAUL CHRISTIAN F
22609019	ENGLEDOVE JESSE J & BETTY I
22609017	HENDRICKS CYNTHIA S
22609002	LUXTON THADDEUS A & KRISTINA L
22609001	MCNALLY EDWARD B
22604006	MIDKIFF J FRANKLIN JR & JEAN
22610040	NIPIT LLC
22609003	R T B PROPERTIES LLC
22610038	RICHESON DRIVE BUILDING ASSOC
22609018	SNEAD JEFF N
22609004	TODARO JAMES J JR
22604007	WHITE HOUSE PROPERTIES LLC
Owner	LUXTON THADDEUS A & KRISTINA L
Petitioner	LUXTON THADDEUS A & KRISTINA L



LUXTON ENTERPRISES **3726 OLD FOREST ROAD** **LAND USE PLAN**



Luxton Enterprises Inc.

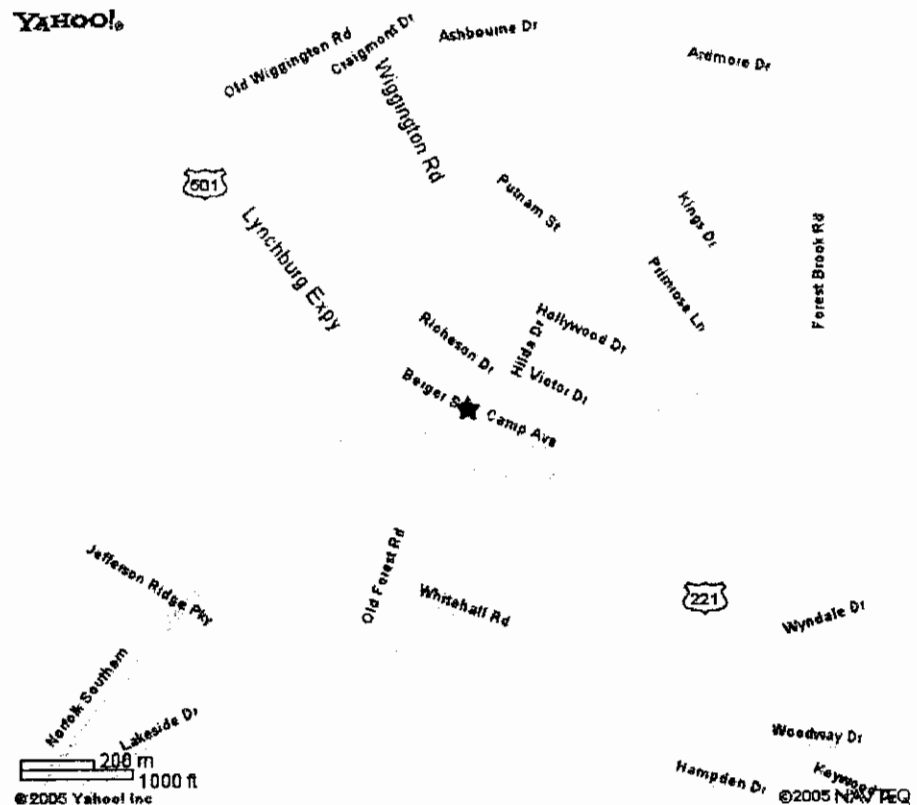
Owner: Thad Luxton

3726 Old Forest Road

Lynchburg, VA 24501

Development Name: Luxton Enterprises Inc. Office

Location: 3726 Old Forest Road

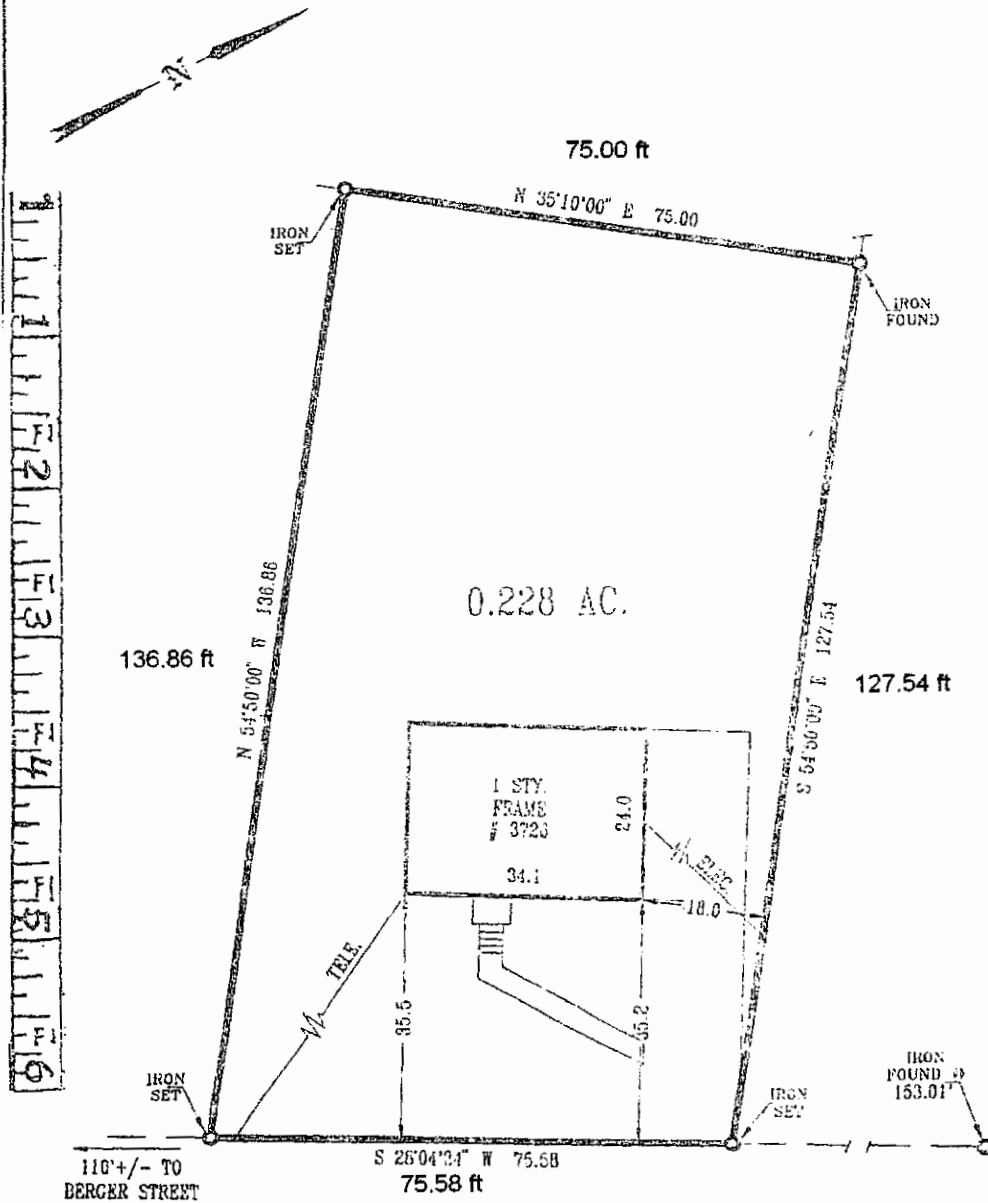


Vicinity Map

Date Submitted: 4/13/2006

Revision Date: 5/15/2006

Dimensions of Lot



OLD FOREST ROAD
(60' R/W)

Scale
1"=20'

Current Zoning of Property: **R-2**
Proposed Zoning of Property: **B-1**
Proposed Use: **Office**

This Property is in Flood Zone C according to F.E.M.A. Flood Insurance map dated 1978.

The property currently has 2 maple trees along Old Forest Rd.

Size: 24" and 32" in diameter

Proposed Vegetative Plantings

5 trees along property lines adjoining residential areas

Type: Cleveland Pear

Size: 4 ft tall at planting

5 shrubs around parking area in rear of property

Type: Leyland Cypress

This project is located in the Scenic Corridor Overlay District.

Old Forest Road has a 60' Right of Way (noted on drawing).

Office size is 818 square feet.

One parking space is required for every 300 square feet.

The property has 3 parking spaces.

Parking Areas in rear of property are 20' + away from property line.

Parking Dimensions are noted on drawing.

Curb and Gutter are already installed along front of property.

Driveway is adequate to serve as a fire lane.

Handicap Accessible Ramp will be added to front or side of House if required. Currently it is step up to enter the side of the house.

Bathroom will have a handicap accessible toilet and sink if required.

No grading will be done on the property for a parking area.

The current driveway and blacktop will be used for parking.

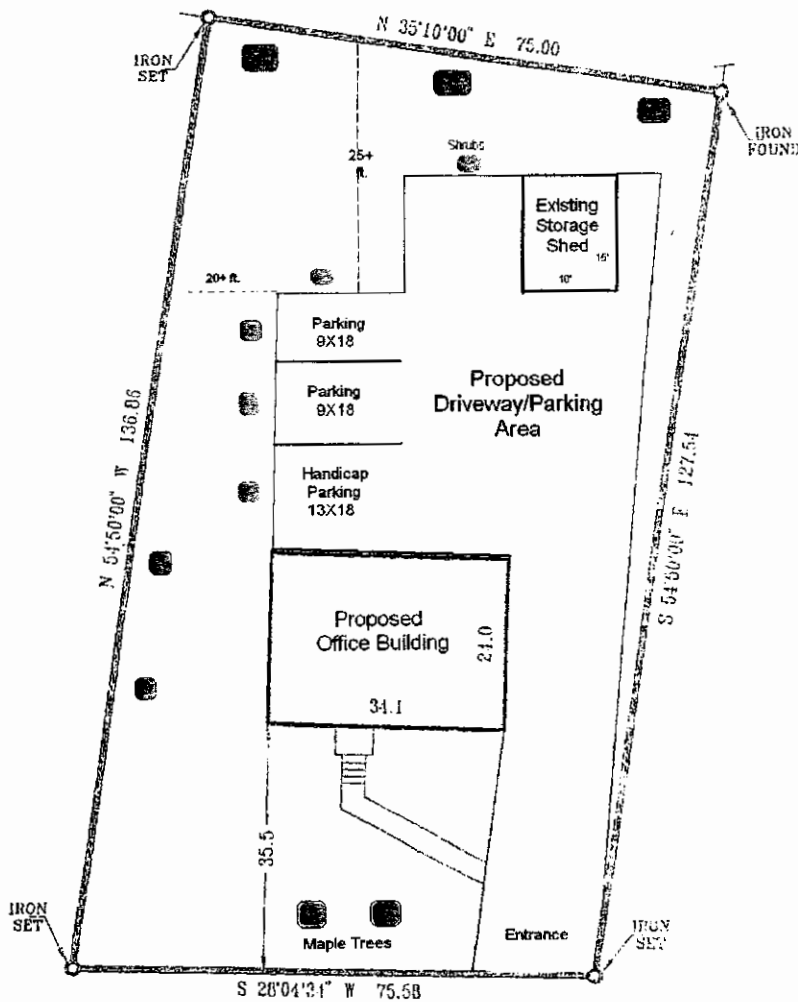
Property currently has City Water.

Property currently has a Septic Tank.

There will be no additional buildings built on the property.

Luxton Enterprises Inc. Office
3726 Old Forest Road
Lynchburg, VA 24501

PB. 4, PG. 25



OLD FOREST ROAD
(60' R/W)

*Proposed Office Building is
currently an Existing House.
*Proposed Driveway/Parking Area
is currently a Blacktop Driveway.

Attn: Kent White

May 15, 2006

City of Lynchburg
Planning Commission

Re. Luxton Enterprises, Inc. Rezoning from R-2 to B-1

Proffers:

1. The project will be developed in substantial compliance with the site plan received by the Department of Community Planning & Development on May 15, 2006.
2. An evergreen buffer will be planted adjacent to residentially zoned property. The buffer shall be a double staggered row, 6' in height at time of planting.
3. An improved commercial entrance will be installed on the property; the entrance will be 30 feet wide at the right-of way line with a 15 foot radius blended into Old Forest Road pavement.
4. The two existing maple trees at the front of the property will be preserved as shown on the site plan received by the Department of Community Planning & Development on May 15, 2006.
5. All outdoor lighting will be glare-shielded and directed to prevent illumination across the property line

 5-15-06
Thad Luxton, Luxton Enterprises

INSPECTIONS DIV
MAY 18 2006
RECEIVED

3726 Old Forest Road
Lynchburg, VA 24501
(434)316-9317

May 24, 2006

[illegible]